

§ 2016.3

(c) Decemeber/January: Written comments submitted and a public hearing held on any proposed actions;

(d) February/March: Preparation of recommendations to the President, Presidential decision, and implementation of Presidential decision.

§ 2016.3 Publication regarding requests.

Following the Presidential decision and where required, the publication of a Presidential proclamation modifying the application of benefits under the ATPA to countries or articles in the FEDERAL REGISTER, USTR will publish a summary of the decisions made in the FEDERAL REGISTER, including:

(a) For petitions on which decisions were made, a description of the outcome of the review; and

(b) A list of petitions on which no decision was made, and thus which are pending further review.

§ 2016.4 Information open to public inspection.

With the exception of information subject to § 2016.5, any person may, on request, inspect in the USTR Reading Room:

(a) Any written petition, comments, or other submission of information made pursuant to this part; and

(b) Any stenographic record of any public hearings held pursuant to this part.

§ 2016.5 Information exempt from public inspection.

(a) Information submitted in confidence shall be exempt from public inspection if USTR determines that the disclosure of such information is not required by law.

(b) A person requesting an exemption from public inspection for information submitted in writing shall clearly mark each page "BUSINESS CONFIDENTIAL" at the top, and shall submit a non-confidential summary of the confidential information. Such person shall also provide a written explanation of why the material should be so protected.

(c) A request for exemption of any particular information may be denied if USTR determines that such information is not entitled to exemption under

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law. In the event of such a denial, the information will be returned to the person who submitted it, with a statement of the reasons for the denial.

APPENDIX A TO CHAPTER XX—ADMINISTRATION OF THE TRADE AGREEMENTS PROGRAM

Text of Executive Order No. 11846 of Mar. 27, 1975 (40 FR 14291).

By virtue of the authority vested in me by the Trade Act of 1974, hereinafter referred to as the Act (Pub. L. 93-618, 88 Stat. 1978), the Trade Expansion Act of 1962, as amended (19 U.S.C. 1801), section 350 of the Tariff Act of 1930, as amended (19 U.S.C. 1351), and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. *The Trade Agreements Program.* The "trade agreements program" includes all activities consisting of, or related to, the negotiation or administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution, section 350 of the Tariff Act of 1930, as amended, the Trade Expansion Act of 1962, as amended, or the Act.

SEC. 2. *The Special Representative for Trade Negotiations.* (a) The Special Representative for Trade Negotiations, hereinafter referred to as the Special Representative, in addition to the functions conferred upon him by the Act, including section 141 thereof, and in addition to the functions and responsibilities set forth in this Order, shall be responsible for such other functions as the President may direct.

(b) The Special Representative, except where otherwise expressly provided by statute, Executive order, or instructions of the President, shall be the chief representative of the United States for each negotiation under the trade agreements program and shall participate in other negotiations which may have a direct and significant impact on trade.

(c) The Special Representative shall prepare, for the President's transmission to Congress, the annual report on the trade agreements program required by section 163(a) of the Act. At the request of the Special Representative, other agencies shall assist in the preparation of that report.

(d) The Special Representative, except where expressly otherwise provided or prohibited by statute, Executive order, or instructions of the President, shall be responsible for the proper administration of the trade agreements program, and may, as he deems necessary, assign to the head of any Executive agency or body the performance of his duties which are incidental to the administration of the trade agreements program.

(e) The Special Representative shall consult with the Trade Policy Committee in connection with the performance of his functions, including those established or delegated by this Order, and shall, as appropriate, consult with other Federal agencies or bodies. With respect to the performance of his functions under Title IV of the Act, including those established or delegated by this Order, the Special Representative shall also consult with the East-West Foreign Trade Board.

(f) The Special Representative shall be responsible for the preparation and submission of any Proclamation which relates wholly or primarily to the trade agreements program. Any such Proclamation shall be subject to all the provisions of Executive Order 11030, as amended, except that such Proclamation need not be submitted to the Director of the Office of Management and Budget.

(g) The Secretary of State shall advise the Special Representative, and the Committee, on the foreign policy implications of any action under the trade agreements program. The Special Representative shall invite appropriate departments to participate in trade negotiations of particular interest to such departments, and the Department of State shall participate in trade negotiations which have a direct and significant impact on foreign policy.

SEC. 3. *The Trade Policy Committee.* (a) As provided by section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872), as amended by section 602(b) of the Act, there is established the Trade Policy Committee hereinafter referred to as the Committee. The Committee shall be composed of:

(1) The Special Representative, who shall be Chairman.

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of the Interior.

(7) The Secretary of Agriculture.

(8) The Secretary of Commerce.

(9) The Secretary of Labor.

(10) The Assistant to the President for Economic Affairs.

(11) The Executive Director of the Council on International Economic Policy. Each member of the Committee may designate an officer of his agency, whose status is not below that of an Assistant Secretary, to serve in his stead, when he is unable to attend any meetings of the Committee. The Chairman, as he deems appropriate, may invite representatives from other agencies to attend the meetings of the Committee.

(b) The Committee shall have the functions conferred by the Trade Expansion Act of 1962, as amended, upon the inter-agency organization referred to in section 242 thereof, as amended, the functions delegated to it by the provisions of this Order, and such other

functions as the President may from time to time direct. Recommendations and advice of the Committee shall be submitted to the President by the Chairman.

(c) The recommendations made by the Committee under section 242(b)(1) of the Trade Expansion Act of 1962, as amended, with respect to basic policy issues arising in the administration of the trade agreements program, as approved or modified by the President, shall guide the administration of the trade agreements program. The Special Representative or any other officer who is chief representative of the United States in a negotiation in connection with the trade agreements program shall keep the Committee informed with respect to the status and conduct of negotiations and shall consult with the Committee regarding the basic policy issues arising in the course of negotiations.

(d) Before making recommendations to the President under section 242(b)(2) of the Trade Expansion Act of 1962, as amended, the Committee shall, through the Special Representative, request the advice of the Adjustment Assistance Coordinating Committee, established by section 281 of the Act.

(e) The Committee shall advise the President as to what action, if any, he should take under section 337(g) of the Tariff Act of 1930, as amended by section 341 of the Act, relating to unfair practices in import trade.

(f) The Trade Expansion Act Advisory Committee established by Section 4 of Executive Order 11075 of January 15, 1963, is abolished and all of its records are transferred to the Trade Policy Committee.

SEC. 4. *Trade Negotiations Under Title I of the Act.* (a) The functions of the President under section 102 of the Act concerning notice to, and consultation with, Congress, in connection with agreements on nontariff barriers to, and other distortions of, trade, are hereby delegated to the Special Representative.

(b) The Special Representative, after consultation with the Committee, shall prepare, for the President's transmission to Congress, all proposed legislation and other documents necessary or appropriate for the implementation of, or otherwise required in connection with, trade agreements; provided, however, that where implementation of an agreement on nontariff barriers to, and other distortions of, trade requires a change in a domestic law, the department or agency having the primary interest in the administration of such domestic law shall prepare and transmit to the Special Representative the proposed legislation necessary or appropriate for such implementation.

(c) The functions of the President under section 131(c) of the Act with respect to advice of the International Trade Commission and under section 132 of the Act with respect to advice of the departments of the Federal

Government and other sources, are delegated to the Special Representative. The functions of the President under section 133 of the Act with respect to public hearings in connection with certain trade negotiations are delegated to the Special Representative, who shall designate an interagency committee to hold and conduct any such hearings.

(d) The functions of the President under section 135 of the Act with respect to advisory committees and, notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (86 Stat. 770, 5 U.S.C. App. I), except that of reporting annually to Congress, which are applicable to advisory committees under the Act are delegated to the Special Representative. In establishing and organizing general policy advisory committees or sector advisory committees under section 135(c) of the Act, the Special Representative shall act through the Secretaries of Commerce, Labor and Agriculture, as appropriate.

(e) The functions of the President with respect to determining ad valorem amounts and equivalents pursuant to sections 601 (3) and (4) of the Act are hereby delegated to the Special Representative. The International Trade Commission is requested to advise the Special Representative with respect to determining such ad valorem amounts and equivalents. The Special Representative shall seek the advice of the Commission and consult with the Committee with respect to the determination of such ad valorem amounts and equivalents.

(f) Advice of the International Trade Commission under section 131 of the Act, and other advice or reports by the International Trade Commission to the President or the Special Representative, the release or disclosure of which is not specifically authorized or required by law, shall not be released or disclosed in any manner or to any extent not specifically authorized by the President or by the Special Representative.

SEC. 5. *Import Relief and Market Disruption.*

(a) The Special Representative is authorized to request from the International Trade Commission the information specified in sections 202(d) and 203(i) (1) and (2) of the Act.

(b) The Secretary of the Treasury, in consultation with the Secretary of Commerce or the Secretary of Agriculture, as appropriate, is authorized to issue, under section 203(g) of the Act, regulations governing the administration of any quantitative restrictions proclaimed in order to provide import relief and is authorized to issue, under section 203(g) of the Act or 352(b) of the Trade Expansion Act of 1962, regulations governing the entry, or withdrawal from warehouses for consumption, of articles pursuant to any orderly marketing agreement.

(c) The Secretary of Commerce shall exercise primary responsibility for monitoring

imports under any orderly marketing agreement.

SEC. 6. *Unfair Trade Practices.* (a) The Special Representative, acting through an interagency committee which he shall designate for such purpose, shall provide the opportunity for the presentation of views, under sections 301(d)(1) and 301(e)(1) of the Act, with respect to unfair or unreasonable foreign trade practices and with respect to the United States response thereto.

(b) The Special Representative shall provide for appropriate public hearings under section 301(e)(2) of the Act; and, shall issue regulations concerning the filing of requests for, and the conduct of, such hearings.

(c) The Special Representative is authorized to request, pursuant to section 301(e)(3) of the Act, from the International Trade Commission, its views as to the probable impact on the economy of the United States of any action under section 301(a) of the Act.

SEC. 7. *East-West Foreign Trade Board.* (a) In accordance with section 411 of the Act, there is hereby established the East-West Foreign Trade Board, hereinafter referred to as the Board. The Board shall be composed of the following members and such additional members of the Executive branch as the President may designate:

- (1) The Secretary of State.
- (2) The Secretary of the Treasury.
- (3) The Secretary of Agriculture.
- (4) The Secretary of Commerce.
- (5) The Special Representative for Trade Negotiations.
- (6) The Director of the Office of Management and Budget.
- (7) The Executive Director of the Council on International Economic Policy.
- (8) The President of the Export-Import Bank of the United States.
- (9) The Assistant to the President for Economic Affairs.

The President shall designate the Chairman and the Deputy Chairman of the Board. The President may designate an Executive Secretary, who shall be Chairman of a working group which will include membership from the agencies represented on the Board.

(b) The Board shall perform such functions as are required by section 411 of the Act and such other functions as the President may direct.

(c) The Board is authorized to promulgate such rules and regulations as are necessary or appropriate to carry out its responsibilities under the Act and this Order.

(d) The Secretary of State shall advise the President with respect to determinations required to be made in connection with sections 402 and 409 of the Act (dealing with freedom of emigration) and section 403 (dealing with United States personnel missing in action in Southeast Asia), and shall prepare, for the President's transmission to Congress,

the reports and other documents required by sections 402 and 409 of the Act.

(e) The President's Committee on East-West Trade Policy, established by Executive Order 11789 of June 25, 1974, as amended by section 6(d) of Executive Order 11808 of September 30, 1974, is abolished and all of its records are transferred to the Board.

SEC. 8. *Generalized System of Preferences.* (a) The Special Representative, in consultation with the Secretary of State, shall be responsible for the administration of the generalized system of preferences under Title V of the Act.

(b) The Committee, through the Special Representative, shall advise the President as to which countries should be designated as beneficiary developing countries, and as to

which articles should be designated as eligible articles for the purposes of the system of generalized preferences.

SEC. 9. *Prior Executive Orders.* (a) Executive Order 11789 of June 25, 1974, and Section 6(d) of Executive Order 11808 of September 30, 1974, relating to the President's Committee on East-West Trade Policy are hereby revoked.

(b)(1) Sections 5(b), 7, and 8 of the Executive Order 11075 of January 15, 1963, are hereby revoked effective April 3, 1975; (2) the remainder of Executive Order 11075, and Executive Order 11106 of April 18, 1963 and Executive Order 11113 of June 13, 1963, are hereby revoked.

[40 FR 18422, Apr. 28, 1975]